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Attorneys for Plaintiffs,
 CAPITOL RECORDS, INC.; UMG
 RECORDINGS, INC.; VIRGIN RECORDS
 AMERICA, INC.; LAFACE RECORDS
 LLC; LAVA RECORDS LLC; SONY BMG
 MUSIC ENTERTAINMENT; BMG
 MUSIC; and ATLANTIC RECORDING
 CORPORATION

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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 DIVISION

CASE NO. _____

**EX PARTE APPLICATION FOR LEAVE
 TO TAKE IMMEDIATE DISCOVERY**

CAPITOL RECORDS, INC., a Delaware
 corporation; UMG RECORDINGS, INC., a
 Delaware corporation; VIRGIN RECORDS
 AMERICA, INC., a California corporation;
 LAFACE RECORDS LLC, a Delaware limited
 liability company; LAVA RECORDS LLC, a
 Delaware limited liability company; SONY
 BMG MUSIC ENTERTAINMENT, a Delaware
 general partnership; BMG MUSIC, a New York
 general partnership; and ATLANTIC
 RECORDING CORPORATION, a Delaware
 corporation,

Plaintiffs,

v.

JOHN DOE,
 Defendant.

1 Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26
2 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting Memorandum
3 of Law, hereby apply *ex parte* for an Order permitting Plaintiffs to take immediate discovery.

4 In support thereof, Plaintiffs represent as follows:

5 1. Plaintiffs, record companies who own the copyrights in the most popular sound
6 recordings in the United States, seek leave of the Court to serve limited, immediate discovery on a
7 third party Internet Service Provider (“ISP”) to determine the true identity of Defendant, who is
8 being sued for direct copyright infringement.¹

9 2. As alleged in the complaint, Defendant, without authorization, used an online media
10 distribution system to download Plaintiffs’ copyrighted works and/or distribute copyrighted works to
11 the public. Although Plaintiffs do not know the true name of Defendant, Plaintiffs have identified
12 Defendant by a unique Internet Protocol (“IP”) address assigned to Defendant on the date and time
13 of Defendant’s infringing activity.

14 3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents that
15 identify Defendant’s true name, current (and permanent) address and telephone number, e-mail
16 address, and Media Access Control (“MAC”) address. Without this information, Plaintiffs cannot
17 identify Defendant or pursue their lawsuit to protect their copyrighted works from repeated
18 infringement.

19 4. Good cause exists to allow Plaintiffs to conduct this limited discovery in advance of a
20 Rule 26(f) conference where there are no known defendants with whom to confer.

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26 ¹ Because Plaintiffs do not yet know Defendant’s true identity, Plaintiffs are unable to
27 personally serve Defendant with a copy of this motion. Instead, Plaintiffs will serve the Clerk of
28 Court pursuant to Fed. R. Civ. P. 5(b)(2)(D) (“A paper is served under this rule by . . . leaving it with
the court clerk if the person has no known address.”) and will serve Defendant’s ISP with a copy of
this motion. Additionally, if the Court grants this motion, Plaintiffs will ask the ISP to notify the
Defendants of the subpoena and provide Defendant with an opportunity to object.

1 WHEREFORE, Plaintiffs apply *ex parte* for an Order permitting Plaintiffs to conduct the
2 foregoing requested discovery immediately.

3
4 Dated: March 27, 2008

HOLME ROBERTS & OWEN LLP

5 By
6


7 MATTHEW FRANKLIN JAKSA
8 Attorney for Plaintiffs
9 CAPITOL RECORDS, INC.; UMG
10 RECORDINGS, INC.; VIRGIN RECORDS
11 AMERICA, INC.; LAFACE RECORDS LLC;
12 LAVA RECORDS LLC; SONY BMG MUSIC
13 ENTERTAINMENT; BMG MUSIC; and
14 ATLANTIC RECORDING CORPORATION

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
DIVISION

CAPITOL RECORDS, INC., a Delaware corporation; UMG RECORDINGS, INC., a Delaware corporation; VIRGIN RECORDS AMERICA, INC., a California corporation; LAFACE RECORDS LLC, a Delaware limited liability company; LAVA RECORDS LLC, a Delaware limited liability company; SONY BMG MUSIC ENTERTAINMENT, a Delaware general partnership; BMG MUSIC, a New York general partnership; and ATLANTIC RECORDING CORPORATION, a Delaware corporation,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO. _____

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' EX PARTE APPLICATION
FOR LEAVE TO TAKE IMMEDIATE
DISCOVERY**

[PROPOSED] ORDER GRANTING PLAINTIFFS' EX PARTE APPLICATION FOR LEAVE TO TAKE IMMEDIATE DISCOVERY

Case No. _____
#36412 v1

Upon the Plaintiffs' *Ex Parte* Application for Leave to Take Immediate Discovery, the Declaration of Carlos Linares, and the accompanying Memorandum of Law, it is hereby:

ORDERED that Plaintiffs may serve immediate discovery on California State University, Monterey Bay to obtain the identity of Defendant by serving a Rule 45 subpoena that seeks documents that identify Defendant, including the name, current (and permanent) address and telephone number, e-mail address, and Media Access Control addresses for Defendant. The disclosure of this information is ordered pursuant to 20 U.S.C. § 1232g(b)(2)(B).

IT IS FURTHER ORDERED THAT any information disclosed to Plaintiffs in response to the Rule 45 subpoena may be used by Plaintiffs solely for the purpose of protecting Plaintiffs' rights under the Copyright Act.

DATED: _____ By: _____
United States District Judge